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10 Attorneys for Plaintiff
UNITED STATES OF AMERICA

11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION
14

15 UNITED STATES OF AMERICA,)
16 Plaintiff,)
17 v.)
18 CHARLES W. McCALL, and JAY M.)
19 LAPINE,)
20 Defendants.)

No. CR-00-0505-MJJ

THE UNITED STATES' REQUEST AND
[PROPOSED] ORDER CONTINUING
SENTENCING DATE FOR ALBERT
BERGONZI

21 The United States respectfully requests that the sentencing date for Albert Bergonzi, now
22 scheduled for February 8, 2007, at 2:00 p.m., be vacated and continued to a date to be determined
23 by the Court. The United States requests this continuance in light of Bergonzi's plea agreement,
24 which requires the United States to file a motion pursuant to U.S.S.G. section 5K1.1 and/or
25 Federal Rule of Criminal Procedure 35 recommending a downward departure or sentence
26 reduction if the United States, in its sole discretion, determines that Bergonzi has cooperated
27 fully and truthfully, provided substantial assistance to law enforcement authorities within the

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FILED

JAN 23 2007

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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1 meaning of U.S.S.G. section 5K1.1, and otherwise complied fully with the terms of his plea
2 agreement.

3 Bergonzi's cooperation in the investigation and prosecution of related criminal matters is
4 continuing, and the United States does not expect it to be completed until sometime after
5 February 8, 2007. In addition, the United States Probation Office has not yet completed its pre-
6 sentence investigation or prepared a Pre-Sentence Report. The United States therefore requests
7 that Bergonzi's sentencing be delayed until after the re-trial, if any, of Charles McCall and Jay
8 Lapine in order better to assess Bergonzi's provision of substantial assistance to law enforcement
9 authorities within the meaning of U.S.S.G. section 5K1.1. A status conference is currently
10 scheduled for March 22, 2007 in *United States v. McCall and Lapine*, at which time the
11 government expects the parties to discuss with the Court a date for re-trial in that matter.

12 For these reasons, the United States respectfully requests that the sentencing date for
13 Bergonzi, now scheduled for February 8, 2007, at 2:00 p.m., be vacated to a date determined by
14 the Court. Counsel for Bergonzi has indicated that she does not object to the government's
15 proposal.

16
17 DATED: January 22, 2007

Respectfully submitted,

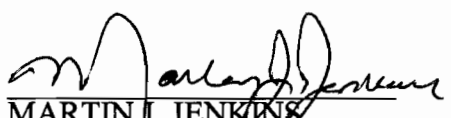
18 KEVIN V. RYAN
19 United States Attorney
20 Northern District of California

21 By


22 TIMOTHY P. CRUDO
23 Assistant United States Attorney

24 Good cause appearing, **IT IS SO ORDERED.** The February 8, 2007 sentencing date for
25 Albert Bergonzi is hereby VACATED.

26
27 DATED: 1/23, 2007


28 MARTIN J. JENKINS
UNITED STATES DISTRICT JUDGE